

FILED

2/12/2016

THOMAS G. BRUTON
CLERK, U.S. DISTRICT COURT

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

RECEIVED

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12-30-15

THOMAS G. BRUTON
CLERK, U.S. DISTRICT COURT

PH

DARRELL W. FAIR (B-32994)

(Enter above the full name
of the plaintiff or plaintiffs in
this action)

vs.

Case No: 15 C 4361
(To be supplied by the Clerk of this Court)

MAJOR J. MCGARNEY

DR OBAISI . S

DR MARTINJA

BOBBY MATTISON

WARDEN HARDY

~~ROBERT~~ ~~ROBERT~~ Lt Kirk

(Enter above the full name of ALL
defendants in this action. Do not
use "et al.")

CHECK ONE ONLY:

AMENDED COMPLAINT

*

COMPLAINT UNDER THE CIVIL RIGHTS ACT, TITLE 42 SECTION 1983
U.S. Code (state, county, or municipal defendants)

COMPLAINT UNDER THE CONSTITUTION ("BIVENS" ACTION), TITLE
28 SECTION 1331 U.S. Code (federal defendants)

OTHER (cite statute, if known)

**BEFORE FILLING OUT THIS COMPLAINT, PLEASE REFER TO "INSTRUCTIONS FOR
FILING." FOLLOW THESE INSTRUCTIONS CAREFULLY.**

I. Plaintiff(s):

- A. Name: DARRELL W. FAIR
- B. List all aliases: _____
- C. Prisoner identification number: B-32994
- D. Place of present confinement: STATEVILLE C.C. #1
- E. Address: PO BOX 112 JOLIET ILL 60434

(If there is more than one plaintiff, then each plaintiff must list his or her name, aliases, I.D. number, place of confinement, and current address according to the above format on a separate sheet of paper.)

II. Defendant(s):

(In **A** below, place the full name of the first defendant in the first blank, his or her official position in the second blank, and his or her place of employment in the third blank. Space for two additional defendants is provided in **B** and **C**.)

- A. Defendant: MAJOR J. McGARVEY
Title: MAJOR
Place of Employment: STATEVILLE C.C.
- B. Defendant: DR OBAISE S.
Title: MEDICAL DIRECTOR STATEVILLE
Place of Employment: STATEVILLE / WEXFORD
- C. Defendant: DR MARTHA
Title: DOCTOR
Place of Employment: STATEVILLE / WEXFORD

(If you have more than three defendants, then all additional defendants must be listed according to the above format on a separate sheet of paper.)

II Dependents:

E. BOBBY MATTISON

STATEVILLE BARBER INSTRUCTOR
STATEVILLE

F. WARDEN HARDY

WARDEN STATEVILLE

STATEVILLE

Lt Kirk

G. ~~XXXXXXXXXX~~ ~~XXXXXXXXXX~~

~~XXXXXXXXXX~~ OFFICER Lt. Stateville

STATEVILLE

IV.

STATEMENT OF CLAIM:

(1)

* FAILURE TO PROTECT / Denial of Medical care

ON the 14th of May 2013 I was assigned to F-house as a Barber, F-house is a high aggression housing unit. F-house inmates are staff assault inmates, weapon violators, sex offenders etc. You also have the segregation unit as well as administrative detention. All seg & administrative detention inmates are to be cuffed in restraints for the reasonable safety of staff & inmates. F-house is a high security area. Inmate Howard was in restraints and was un-cuffed - which was a breach and also a serious safety risk. Inmates are placed under A/D status by the admin or I/A usually for serious reasons that pose a immediate threat to staff & inmates. Inmate HOWARD after he left I/A office was lead back to F-house in restraints at this time he was under administrative detention. While he was waiting in the holding cells outside of F-house front door, he was loudly complaining to Major McMorvey about ~~why~~ why he shouldn't be in A/D and he don't want nobody (cell-house help) touching his property. Major McMorvey then uncuffed a HOWARD who was A/D status creating substantial risk to staff & inmates, inmate Howard should of been taken directly to seg & cell-house were supposed to have all personal property. All seg & A/D inmates waiting around without restraints pose a heightened risk to staff & inmate safety.

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IV. Statement of Claim:

State here as briefly as possible the facts of your case. Describe how each defendant is involved, including names, dates, and places. **Do not give any legal arguments or cite any cases or statutes.** If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. (Use as much space as you need. Attach extra sheets if necessary.)

ON MAY 14 2013 INMATE P. HOWARD WAS assigned to administrative detention A/D. inmates according to the all admin rules & regulations are to be immediately handcuffed and taken to their A/D cell, this is for the protection of staff & inmates due to the nature of inmates placed in A/D status, everywhere from dangerous disturbers, staff assaults, criminal & gang as well as weapon violations. ON this particular day Major J. McHarvey authorized for inmate Howard - who was previously cuffed - to be uncuffed so that he could pack & move his property to 1 gallery per A/D cells, a clear violation of I DOC rules & regulations and a potential security risk for staff & inmates. It hurt was the Lt of F-house for that day & SGT NASH was acting SGT for that day. I (FAIR) was the F-house BARBER, I was told by staff to assist w/ one of inmate HOWARD'S bags. When I set his bag in front of cell 121, inmate HOWARD was standing there next to his other property, there was no security around, I set the bag down & HOWARD started swinging at my head after he landed several blows, I restrained him until staff came over 1 minute later S/O Meding grabbed inmate HOWARD & S/O BROOKS grabbed me, we both were then hand cuffed. We were both placed in (1 each) F-house 1 gallery showers. ~~When~~ I heard the staff asking each other "who uncuffed Howard" someone said "it was the Major's call, I had swelling on the left -

side of my face my knees were bleeding, and my
③ shoulder (left) was hurt, because C/O Medina
tackled inmate off my left side & bumped my
left shoulder area. * uncuffing a inmate already
cuffed and in A/D status who was loud and aggressive
and who warned Major McBarney that he didn't
want cell-house help touching his property, was a
major breach of duty, who inmate exhibited risk of
injury to staff & cell-house help. And the lack
of ability to supervise inmate Harvards more was
a failure to appropriate steps to protect cell-house help
from known danger presented by a A/D status inmate.
NO inmate in Reg or A/D are allowed to walk out their
cell without restraints - Never at no time, the rules
state that Reg & A/D inmates must be cuffed prior
to their door even being opened. / claim 2nd Denial medical

Denial of medical care → While in the shower, and still cuffed Major
McBarney came to the shower and asked if I was
kool, I said that my head hurt & my shoulder was
hurt & I asked to see a med tech for that & for some
bandaids for my knees, Major McBarney said that I
was lucky that I wasn't going to Reg today, and
that will keep this (in house) no Reg, ticket or
incident report, I was then uncuffed by C/O Leonard
and the med tech was never called. I had staff

call B. Mattison my Barler Supervisor to ask if
I could come to Barler shop (his office) to explain
what happened & to set up medical appointment -

④

~~Patricia B. Mathews told staff that "no~~
~~one could come to his office".~~ I also wrote B.
Mathews that night explaining what happened and
asking that he excuse me for health care, I never got a
response. I went to work F-house the next day
May 15 2013 and Dr. Turk called me to his office
& told me to go back to my nursing unit. I
was told that I was given a few days off, the next
day I was told that I was fired. Counselor McKee
claimed that I was re-assigned but there 3rd Barler
positions available to work that I could of been
reassigned to that would of involved B. Mathews - I was
fired. * For the next 2nd weeks I spoke to nurses

several times a day because of the severe headaches,
I was regurgitating food & I had a sensitivity to light
my left shoulder was in constant pain, Nurse Wendy,
Heather, ^{KATHIE} ~~KATHIE~~ & Katherine, I was told to drop a request slip
and the Medical Director OBAIS; implemented a new system
no exceptions. Dr. Williams treated me about 2 weeks later
she documented the swelling on the left side of my face &
the symptoms that I was experiencing & also the abrasions on
my ~~both~~ knees, she also scheduled me for a X-ray on my
neck. DR. OBAIS; never did a follow up, I had to
re-submit request etc and wait another couple of

months before I saw him, he basically said that
I was fired, he & DR. Martiye prescribed pain
medication & ordered X-Ray of left shoulder

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But their treatment was limited if non-existent. My rotator cuff is still injured, I have constant pain, limited range of motion & decreased strength. My head injury was never tested for concussion, but all my symptoms point to exactly that, the headaches have subsided but I still experience blurred vision & dizziness from time to time. Most recently, in Jan + Aug 2015 I was taken off my pain medication & my last Bent permit was not renewed - it was issued after I had surgery on my right shoulder in 2011, but being forced to climb on the top Bent w/no ladder to assist me, was forced to twist my shoulder just to climb in & out my bunk. I have a large prostate so I urinate 6-8 times a night, as am constantly hurting my shoulder (left).

Finally, according to 20 Ill admin code 504

* 504.40 Administrative Detention

Administrative Detention is a non-disciplinary status of confinement which removes an offender from General Population or restricts the individual's access to general population

* Reasons for Admin Detention to consider

- 1) Seriousness of offense
- 2) Safety & security of inmates, staff or one person

* 504.410 Placement in segregation status

A) Offenders may be placed in Seg or Confinement / reasons include:

1. Temporary confinement waiting hearing
2. Investigative status
3. Disciplinary segregation
4. Administrative Detention

* Mr. HOWARD, was placed in cuffs & placed in A/D status by clerical staff at about 10:30 AM May 14 2013, Major McDarvey uncuffed him at about 12:00 PM May 14 2013

Healthcare personnel

F-hall Staff

DR S. OBAISI

Major McDarvey

DR MARTIN

2nd Kirk

Nurse Heather

SGT WASH

Mary

C/O MEDINE

~~KATHIE~~ KATHIE

C/O LAZARD

Katherine

C/O BROOKS

Wendy

C/O JONOWICK

ILLINOIS DEPARTMENT OF CORRECTIONS
OFFENDER WRITE-OUT
Stateville Correctional Center

To the reader: This letter has been inspected for security purposes. This inspection is not verification of the offender's statements contained herein.

When sending funds to an offender by mail, you may only send money orders and/or cashier's checks; each must be in the denomination of \$50 or less. You may also send funds via Western Union (there is no limit to the \$ amount that you may send in this manner).

You may send or bring approved publications to the facility. Such items will be reviewed by the Publications Review Committee prior to being forwarded to the offender.

The mailing address for offenders at the main facility is: P.O. Box 112, Joliet, IL 60434. The address for those at the facility's Minimum Security Unit is: 20415 Division Street, Crest Hill, IL 60435.

Please include the offender's name and complete number on all correspondence, funds and publications that are mailed to the facility

To

From

Street

Number

City

State

Zip Code

V. Relief:

State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

Compensated for lost pay, pain & suffering
cumulative & punitive damages, court cost

VI. The plaintiff demands that the case be tried by a jury. ☐ YES ☐ NO

CERTIFICATION

By signing this Complaint, I certify that the facts stated in this Complaint are true to the best of my knowledge, information and belief. I understand that if this certification is not correct, I may be subject to sanctions by the Court.

Signed this _____ day of _____, 20____

(Signature of plaintiff or plaintiffs)

(Print name)

(I.D. Number)

(Address)

STATE OF ILLINOIS)
) SS
COUNTY OF Will)

AFFIDAVIT

I, Don Lippert being first duly sworn under oath depose and state that the foregoing is true and correct and made upon my personal knowledge and I am competent to testify thereto.

① That on May 14, 2013, I was housed in F House on 2 Gallery.

② On May 14, 2013, I had seen inmate Howards moving his personal property from 3 Gallery to 1 Gallery at cell F 121.

③ I then noticed ^{and heard} inmate Fair a F House Barber being told by security to help move inmate Howards property to cell F 121 and saw inmate Fair carrying a bag to cell 121.

④ While inmate Fair had got to cell F 121 to drop off inmate Howards property I then saw inmate Howards without any observational reason started attacking inmate Fair, where I then saw F House guards % Medicine who tackled inmate Howard to the ground and % Brooks who had grabbed inmate Fair and moved him away to be cuffed up.

Pursuant to 28 USC 1746, 18 USC 1621 or 735 ILCS 5/109, I declare, under penalty of perjury, that I am a named party in the above action, that I have read the above documents, and that the information contained therein is true and correct to the best of my knowledge.

DATE: 12-17-15

/s/ Don Lippert
NAME: Don Lippert
IDOC#: B-74050
Stateville Correctional Center
P.O. BOX 112
Joliet, IL 60434

STATE OF ILLINOIS)
) SS
COUNTY OF _____)

AFFIDAVIT

I, Larmott Dantzer being first duly sworn under oath depose and state that the foregoing is true and correct and made upon my personal knowledge and I am competent to testify thereto.

ON MAY 14 2013 I WAS HOUSED IN F-HOUSE
454 & I WITNESS TWO C/O'S HAND CUFF IN MATE
FAIR & GROOMER IN MATE. I DON'T KNOW THE
OTHER GUY NAME.

END

Pursuant to 28 USC 1746, 18 USC 1621 or 735 ILCS 5/109, I declare, under penalty of perjury, that I am a named party in the above action, that I have read the above documents, and that the information contained therein is true and correct to the best of my knowledge.

DATE: 12-19-15

/s/ _____
NAME: Larmott Dantzer
IDOC#: 1224578
Stateville Correctional Center
P.O. BOX 112
Joliet, IL 60434

STATE OF ILLINOIS)
) SS
COUNTY OF _____)

AFFIDAVIT

I, ANTOINE WAINWRIGHT being first duly sworn under oath depose and state that the foregoing is true and correct and made upon my personal knowledge and I am competent to testify thereto.

ON MAY 14, 2013 I WAS STANDING AT MY CELL
DOOR TALKING TO MY NEXT DOOR NEIGHBOR ABOUT THE
INMATE HOWARD MOVING FROM 308 TO SEGREGATION
WITH NO HAND CUTTS ON, BECAUSE I NEVER SEEN
ANYONE MOVE TO SEGREGATION WITHOUT BEING HAND
CUTTED. AS HE WAS MOVING TO SEG., I NOTICE
THE 7-HOUSE BARBER (FAIRS) HELPING HIM MOVE HIS
PROPERTY DOWN TO SEG. WHEN THE 7-HOUSE BARBER
PUT WHITE HOWARD PROPERTY DOWN IN FRONT OF
CELL 121, WHITE HOWARD CAME UP BEHIND THE
7-HOUSE BARBER AND JUST STARTED SWINGING ON
HIM, HITTING HIM IN THE HEAD AND FACE. THE
7-HOUSE START RAN OVER THERE TO SEPERATE THEM,
WHEN CO MEDINE GRABBED INMATE HOWARD, HE BUMPED
INTO THE 7-HOUSE BARBER LEFT SHOULDER. THEY WERE BOTH
HAND CUTTED AND TAKING TO A HOLDING AREA.

Pursuant to 28 USC 1746, 18 USC 1621 or 735 ILCS 5/109, I declare, under penalty of perjury, that I am a named party in the above action, that I have read the above documents, and that the information contained therein is true and correct to the best of my knowledge.

DATE: 12/21/15

1/s/ Antoine Wainwright
NAME: ANTOINE WAINWRIGHT
IDOC#: N 20490
Stateville Correctional Center
P.O. BOX 112
Soliet, IL 60434

STATE OF ILLINOIS)
) SS
COUNTY OF _____)

AFFIDAVIT

I, John MURRAY being first duly sworn under oath depose and state that the foregoing is true and correct and made upon my personal knowledge and I am competent to testify thereto.

I JOHN MURRAY (#N-84899) Promise to speak the Truth and nothing but the "Truth" that I was back here in the Month of May/14/13 and I seen a inmate Moving his property from 3-pravity to Cell #121 and I saw the Cell House Barber Carry a bag of the same inmate (Howard) property to Cell #121 I also saw (Howard) Swing and hit the Barber (Fair) For no Apparent Reason. Then I seen the F-house staff Run to separate (Fair) and (Howard) C/O (Meding) hand Cuffed (Howard) - who was uncuffed and C/O (Breda) Cuffed (Fair) Then later I saw both (Howard) and (Fair) uncuffed and when Howard finally Moved into Cell #121 He attacked the Guy in that Cell and he wasn't hand Cuffed at all "when he should have been" Once again I will speak the Truth to this matter.

Pursuant to 28 USC 1746, 18 USC 1621 or 735 ILCS 5/109, I declare, under penalty of perjury, that I am a named party in the above action, that I have read the above documents, and that the information contained therein is true and correct to the best of my knowledge.

DATE: 12-21-15

Is/ John Murray
NAME: John MURRAY
IDOC#: N-84899
Stateville Correctional Center
P.O. BOX 112
Joliet, IL 60434